

1893-001 Chancery Causes: Betterton & Co] vs. G. C. Southern & Co
Lee County

Betterton, Whitlow, Johnson, Chance, Johnson & Southern]

CA - Debt

T- Property

To the Hon. H. S. K. Morrison, Judge
of the Circuit Court for Lee County,
Virginia:-

Humbly complaining your
orators J. M. Betterton and J. H.
Whitlow, merchants and partners
in trade under the style and firm
of Betterton & Co, would respectfully
represent unto your honor that H. G.
Johnson and G. G. Southern late
merchants and partners in trade
under the style and firm of Johnson
& Southern were on the — day of
— 1891, indebted to your orators
in the sum of \$411⁰⁰/₁₀₀ which sum
is still due your orators; that
the said H. G. Johnson after said
debt was contracted died some
time in the month of March, 1891,
intestate; that said Johnson & Southern
at the time of said Johnson's death were
the owners of a certain lot of land
in the town of Cumberland Gap, a
copy of the deed to which lot is here
filed marked "A".

Your orators will further
show unto your honor that heretofore,
to wit: on 15th day of April, 1891, said
G. G. Southern, survivor of himself
and the said Johnson, being desirous
of securing the payment of said sum
of Money due your orators as aforesaid,
made, ~~and~~ executed and delivered to
them a deed of Mortgage to his interest

in said lot of land mentioned in
exhibit "A". Said mortgage deed is here
filed marked "C" and prayed to be
considered as a part of your orator's
bill.

Your orators will furthermore
and show unto your honor that while
said lot was deeded to said Johnson
and Southern it was the money of said
Southern that paid for the same, and
that being the case they are advised
and informed that the interest that said
Johnson had in said lot was merely
legal, the beneficiary being the said
Southern.

Your orators will again show unto
your honor that on the death of the said
H. G. Johnson his only heir at law was
his father Ambrose Johnson; that L. C.
Chance was appointed and qualified
as the administrator of the said H. G. John-
son; that the said Ambrose Johnson,
L. C. Chance and G. G. Southern were
all non-residents of this state.

Your orators will again aver
and show unto your honor, that the
said sum of money together with all
of its- its- accrued interest, is still
due and owing them, and that they
are entitled to have said mortgage
foreclosed, and if said sum of money
be not paid within the time given by
your honor, to have said lot or por-
cel of land sold and the proceed

Thereof applied to the payment of your
orators said debt.

The premises considered, your orators
are advised they are remedyless at
law. Their prayer is, therefore, that
your honor take cognizance of their said
cause of complaint; that said Ambrose
Johnson, H. G. Southern and L. C. Chance,
administrator of H. G. Johnson deceased,
be made parties defendants to this bill;
that they each be required to answer
the same on oath; that the said mort-
gage be foreclosed for the payment of
of your orators said debt; and that
order of publication be made against
said non-resident defendants as the
law requires in such cases -

And that all such other, further
and general relief be granted as the
nature of your orators case may
require. May process issue &c.
And your orators will ever pray
&c.

Cunnington & Goins,
p. q.

P. & G.

1st March 1892

Petterton + Co

vs. Bill in Chancery

G. G. Southern + als.

1892 1st March R. Bill
Giles & Co. & Co. & Co. & Co.
all being non residents
order sub. + Car. & Co.

" 2 March Rules Court do

" 1st April " "

" 1st May Rules v. P. Campet
+ 2 Cases v. P. Campet

" 2 May R. Decree
Conf. + cause set for
hearing by P. Campet

" June Decree for Sale
+ continued

1892 Avon Court do

1893 Mr. Decree final

to 11.18

Pr 5.00

At 15.00

Estimate 6.00

\$37.18

Betterson & Co., Compt.

vs

G. B. Douthett & Co. Defts

} In Chancery

This cause came on again to be heard upon the papers formerly read therein and the report of Court J. St. S. Morrison of the case of the same and took in the bill and proceedings mentioned, filed herein on the 21st day of Nov. 1892; and said report having been filed for more than ten days and is unexcepted to, it is adjudged, ordered and decreed that said report and sale be and is hereby confirmed. And this cause is stricken from the docket.

Buttinton & Co

only one final

G. G. Southman & Co

Entered by
O.B. page 438,
March 8th 1893
J. A. S. Hyatt

Entered this

March 8 1893.

H. S. M.

1 *Betterlin the Compt.*

2 *vs.*

3 *G. G. Southern et al's Defts*

} *In Chancery*

4 *This cause came on this day*
5 *to be heard upon the bill of the Compt.,*
6 *and exhibits filed therein. And it appearing*
7 *that process has been duly served on*
8 *the above defts. for more than fifteen days*
9 *before the first day of this term of the*
10 *court and that order of publication has*
11 *been duly made, & published, ^{compt's} for more*
12 *than four weeks before this term of the*
13 *court, and said defendants failing*
14 *to appear and plead, or answer, said*
15 *Compt's bill is taken for confessed.*

16 *On consideration of all which, it is*
17 *adjudged, ordered and decreed that unless*
18 *the said defendants pay within 30 days*
19 *from this date the costs of this suit, and*
20 *the sum of \$411²⁰ with legal interest*
21 *thereon from the 1st day of May, 1891 till*
22 *payment to said plaintiffs, the said defend-*
23 *ants, their heirs and all persons claiming*
24 *under them be from thenceforth forever*
25 *barred and foreclosed of and from all*
26 *equity of redemption in lot or parcel*
27 *of land in the bill & proceedings mentioned;*
28 *and, in the event of default in the pay-*
29 *ment of said sum of money and the costs*
30 *of this suit, that J. H. S. Morison, who is*
31 *hereby appointed a special commissioner*
32 *for the purpose, do after advertising the*

1 by written or printed notices the time
2 terms and place of sale for 20 days
3 posted at the front door of the Court House
4 of Lee County, Va² at ~~two~~^{two} or more
5 public places in the town of Charle-
6 land Gap and at such other places as
7 he may deem proper, proceed to sell
8 ~~at a public sale~~ on the premises
9 said lot or parcel of land at public
10 outcry and to the highest bidder on the
11 following terms, to wit: an amount suf-
12 ficient to pay the costs of such, com-
13 missions of sale and one-fourth of
14 said debt he will require to be paid
15 down by the purchaser and the resi-
16 due on a credit of six ^{months} ~~months~~ time.
17 And for the deferred payments he will
18 take bond payable to himself as such
19 Commission bearing interest from date
20 of sale and with good personal security.
21 But said Incisor before entering upon
22 the duties of the requirements of this de-
23 cret will execute bond before the Clerk
24 of this Court in a penalty of \$600⁰⁰
25 Conditioned to faithfully discharge
26 his duties and to account for all money
27 he may receive as such Court in this
28 cause. And he will report his ac-
29 tion to this Court. And this Cause is
30 Continued.
31
32

Butterton & Co

32 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

G. G. Southern et al

Entered in C. O. Book

p. 399 & 400.

This June 9th 1892

J. A. G. Hyatt.
Clerk

Enter This

June 9 1892

H. S. K. M.

BETTERTON & CO.

VS.

G. G. SOUTHERS ET AL.

COMMISSIONER'S REPORT OF SALE.

I respectfully report that, in obedience to a decree in this cause made at the last term whereby I was appointed special commissioner, and commanded to sell the property therein mentioned, I advertised as required by the decree, and on the first day of August 1892, on the premises sold said property, at public sale, in bar of the equity of redemption, to Betterton & Co., they being the highest and best bidders, at the price of Fifty Dollars, for which they paid cash in hand.

Said property sold is that certain tract, or lot of land lying in Lee County, Virginia, and what is known as Lot...*and*, as shown by the plat of the East Kentucky Land Company on file in the Register's Office in Lee County, *as described in the deed of G. G. Southers & wife to said Betterton & Co. and being also the same lot as*

Respectfully submitted this Nov. 7th. 1892.

...*J. H. Morrison*...
Special Commissioner.

of record in or of Book No. 27 pages 60 & 61

Commissioner's Report.

Betterton & Company

vs.

G. G. Southers et al.

*Filed Nov. 21, 1892,
J. A. G. Hyatt, Clerk*

KNOW ALL MEN BY THESE PRESENTS, That we

J. H. S. Morrison
E. H. Pennington & A. M. Goins
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Six*
hundred dollars, to the payment whereof, well and truly

to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our
and each of our heirs, executors and administrators, jointly and severally, firmly by these
presents, hereby waiving the benefit of our homestead exemptions as to this obligation,
and any claim, right, or privilege to discharge any liability arising under this bond, or by
virtue of said office or trust, in any currency, funds, counter claims or offsets other than
legal-tender currency of United States. Sealed with our seals, and dated *15th* day
of *June*, one thousand eight hundred and *92*.

The Condition of The Above Obligation is Such, That if the above bound *J. H. S. Morrison*
shall faithfully perform the duties of *his* office or trust, as *Commissioner*

under a decree of the Circuit Court of the County of Lee, pronounced on the *9th*
day of *June*, 18 *92*, in the suit therein depending
under the name and style of *Butterton & Co* Plaintiff
vs. *G. S. Southern et al* Defendants

and properly account for all sums of money *he* may receive as
such *Commissioner*

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the
presence of

J. H. S. Morrison (SEAL.)
E. H. Pennington (SEAL.)
A. M. Goins (SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day *A. M. Goins & E. H. Pennington*
sureties on the above bond, made oath before me J. A. G. Hyatt, Clerk of the Circuit
Court of the County of Lee, that *they own & have*
estate after the payment of all *their* just debts, and those
for which *they are* bound as securities for others, and expect to have
to pay *are* worth the sum of *Six hundred & 00*
dollars.

Given under my hand this *14th* day of *June* 18 *92*.

Teste:

J. A. G. Hyatt Clerk.

Betterson & Co.

20 3/4 Corns Bond

G. B. Sauter & Co.

Filed July 11th 1892

J. A. S. Hyatt O

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

L. M. Southern,
Ambrose Johnson and L. C.
Chance Admr. of the Estate of
W. H. Johnson dec'd

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in *March* next, being rule day to answer a bill in Chancery exhibited in our said Court

against

them by *J. M. Betterton*
& J. H. Whitlow merchants and partners
in trade under the firm and style
name of "Betterton & Co."

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *28th* day of *January* 18 *92* in the 11⁶ year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

(1049)

Butterton & Co.

3 Spain Chey

res 3.

G. S. Southern et al

To St March Rules 1892.

Not executed the
defendants not
being found in my
bailwick Febry
1st 1892.

S. L. C.
C. E. Flannery

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11.18

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